

## **REMARKS**

Claims 1-5, 8-12, 15-19 and 22-26 remain in the application unchanged.  
Reexamination and reconsideration of the claims are respectfully requested.

### **Summary of Office Action**

In the final Office Action dated April 2, 2007, the Examiner rejected claims 1, 4-5, 8, 11-12, 15-19 and 25 under 35 U.S.C. §103(a) as being unpatentable over Takekuma, U.S. Patent Publication No. 2003/0067264 (hereinafter "Takekuma '264") in view of Haitz, U.S. Patent No. 3,780,357 (hereinafter "Haitz '357").

The Examiner also rejected claims 2-3 and 9-10 under 35 U.S.C. §103(a) as being unpatentable over Takekuma '264 in view of Haitz '357 as applied to claims 1 and 8, and further in view of Ishinaga, U.S. Patent No. 3,355,946 (hereinafter "Ishinaga '946").

The Examiner further rejected claims 22, 24 and 26 under 35 U.S.C. §103(a) as being unpatentable over Takekuma '264 in view of Haitz '357 as applied to claims 1 and 8, and further in view of Song et al., U.S. Patent No. 6,707,069 (hereinafter "Song et al. '069").

The Examiner further rejected claim 23 under 35 U.S.C. §103(a) as being unpatentable over Takekuma '264 in view of Haitz '357 as applied to claim 8, and further in view of Shaddock, U.S. Patent Publication No. 2002/0163001 (hereinafter "Shaddock '001").

Applicants believe that each of the above rejections is overcome by the Statement of Common Ownership below which removes Takekuma '264 as a prior art reference. See M.P.E.P. §706.02(I)(2)(II), which states (emphasis added):

“For example, an attorney or agent of record receives an Office action for Application X in which all the claims are rejected under 35 U.S.C. 103(a) using Patent A in view of Patent B wherein Patent A is only available as prior art under 35 U.S.C. 102(e), (f), and/or (g). In her response to the Office action, the attorney or agent of record for Application X states, in a clear and conspicuous manner, that:

‘Application X and Patent A were, at the time the invention of Application X was made, owned by Company Z.’

**This statement alone is sufficient evidence to disqualify Patent A from being used in a rejection under 35 U.S.C. 103(a) against the claims of Application X.”**

Claims 1, 8 and 25 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 8 of copending Application No. 10/669,986. A Terminal Disclaimer in accordance with 37 C.F.R. §1.321 is being filed separately. Thus, the provisional rejection of claims 1, 8 and 25 is believed to be overcome.

#### **Statement of Common Ownership**

The undersigned hereby states that the present Patent Application Serial No. 10/812,526 and U.S. Patent Publication No. 2003/0067264 (which issued as U.S. Patent No. 6,850,001) were commonly owned by Agilent Technologies, Inc. at the time the invention of Patent Application Serial No. 10/812,526 was made. Evidence of the ownership of the present application is an Assignment recorded at Reel 014528, Frame 0147. Evidence of the ownership of U.S. Patent Publication No. 2003/0067264 (U.S. Patent No. 6,850,001) is an Assignment recorded at Reel 013376, Frame 0185.

### **Conclusion**

Applicants believe that all of the claims pending in the application (claims 1-5, 8-12, 15-19 and 22-26) are now allowable. Therefore, Applicants respectfully request that the Examiner reconsider the application and grant an early allowance. Should the Examiner have any questions, Applicants' attorney may be contacted at the telephone number listed below.

Respectfully submitted,

KLAAS, LAW, O'MEARA & MALKIN, P.C.

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